

ARENT FOX LLP
Allen G. Reiter
Adrienne M. Hollander
1675 Broadway
New York, New York 10019
Phone: 212-484-3900
Fax: 212-484-3990
Attorneys for Defendant Quanta Resources Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

PHOENIX BEVERAGES, INC., RODB LLC,
WINDMILL DISTRIBUTING COMPANY, L.P., UP
FROM THE ASHES, INC., and other affiliated companies
of PHOENIX BEVERAGES, INC.,

Plaintiffs,

-against-

EXXON MOBIL CORPORATION, EXXONMOBIL
RESEARCH AND ENGINEERING COMPANY and
QUANTA RESOURCES CORPORATION,

Defendants.

Case No. 1:12-CV-03771 (PKC) (JO)

QUANTA RESOURCES CORPORATION,

Third-Party Plaintiff,

-against-

ACE WASTE OIL, INC.; et al.,

Third-Party Defendants.

**REPLY TO COUNTERCLAIM
OF THIRD-PARTY DEFENDANT
REVERE COPPER PRODUCTS,
INC. AND AFFIRMATIVE
DEFENSES OF THIRD-PARTY
PLAINTIFF QUANTA
RESOURCES CORPORATION**

Third-Party Plaintiff Quanta Resources Corporation (“Quanta”), by and through its undersigned attorneys, hereby replies to the Counterclaim of Third-Party Defendant Revere Copper Products, Inc. (“Revere”) as follows:

1. Quanta admits the allegations contained in Paragraph 54.

2. Quanta admits the allegations contained in Paragraph 55.

3. Quanta denies the allegations contained in Paragraph 56, and respectfully refers this Court to the Third-Party Complaint for its allegations.

4. Quanta denies the allegations contained in Paragraph 57, and respectfully refers this Court to the Third-Party Complaint for its allegations.

5. Quanta denies the allegations contained in Paragraph 58, and respectfully refers this Court to the Third-Party Complaint for its allegations.

6. Quanta denies the allegations contained in Paragraph 59, and respectfully refers this Court to the Third-Party Complaint for its allegations.

7. Quanta denies the allegations contained in Paragraph 60, and respectfully refers this Court to the Third-Party Complaint for its allegations.

8. Paragraph 61 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 61.

9. Paragraph 62 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 62.

10. Paragraph 63 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 63.

11. Paragraph 64 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 64.

12. Paragraph 65 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 65.

13. Paragraph 66 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 66.

14. Paragraph 67 calls for a legal conclusion to which no response is required. If a response is required, Quanta denies the allegations set forth in Paragraph 67.

FIRST AFFIRMATIVE DEFENSE

Revere's Counterclaim fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Revere's Counterclaim against Quanta is barred by, or recovery from Quanta must be reduced or eliminated in accordance with, the doctrines of unclean hands, laches, waiver and/or estoppel.

THIRD AFFIRMATIVE DEFENSE

Revere is not entitled to recover any costs from Quanta because in the event that Plaintiffs recover from Quanta, Quanta will pay more than its fair share of the responsibility for the claims that Plaintiffs made or could have made against Quanta in this action.

FOURTH AFFIRMATIVE DEFENSE

Revere lacks standing to bring a claim under 42 U.S.C. § 9613(f).

FIFTH AFFIRMATIVE DEFENSE

Revere fails to state a claim under 42 U.S.C. § 9613(f) because it fails to allege, and explicitly denies, that it is a potentially responsible party.

SIXTH AFFIRMATIVE DEFENSE

Revere's Counterclaim is barred by the doctrine of unjust enrichment.

SEVENTH AFFIRMATIVE DEFENSE

Quanta did not own or operate the Quanta Site at the time any hazardous substance was disposed of there.

EIGHTH AFFIRMATIVE DEFENSE

Quanta incorporates any and all affirmative defenses allowed by statute, rule, or regulation.

NINTH AFFIRMATIVE DEFENSE

Quanta reserves the right to rely upon such other defenses, including those that have been asserted by the other parties herein, as may become available or apparent during discovery proceedings in this case and hereby reserves its right to amend its Reply to plead such defenses.

WHEREFORE, Quanta demands judgment as requested in the Third-Party Complaint and dismissing Revere's Counterclaim, together with attorneys' fees, costs and disbursements of this action and any further relief as the Court deems just and proper.

Dated: New York, New York
October 7, 2013

ARENT FOX LLP

By: /s/ Allen G. Reiter
Allen G. Reiter
Adrienne M. Hollander
1675 Broadway
New York, New York 10019
Phone: 212-484-3900
Fax: 212-484-3990
Email: allen.reiter@arentfox.com
adrienne.hollander@arentfox.com

*Attorneys for Defendant/Third-Party Plaintiff
Quanta Resources Corporation*